

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION**

RICO ISAIH HAIRSTON,

Plaintiff,
v.

**Case No. 2:18-cv-1253
CHIEF JUDGE EDMUND A. SARGUS, JR.
Magistrate Judge Chelsey M. Vascura**

ANDREW FULTZ, *et al.*,

Defendants.

OPINION AND ORDER

On May 1, 2019, the United States Magistrate Judge issued a Report and Recommendation (ECF No. 20) recommending that Plaintiff Rico Isaih Hairston (“Plaintiff”) be permitted to proceed on his individual capacity First and Eighth Amendment claims against Defendant Andrew Fultz (“Defendant Fultz”) for his alleged use of mace. In addition, the Report and Recommendation recommended that Plaintiff’s claims against Defendant Warden Smith (“Defendant Smith”) be dismissed for failure to state a claim pursuant to § 1915(e)(2). The Report and Recommendation advised the parties that failure to object within fourteen days would result in a waiver of review by a District Judge. The time for filing objections has passed, and no objections have been filed to the Report and Recommendation.

Therefore, the Court **ADOPTS** the Report and Recommendation. (ECF No. 20). Plaintiff is permitted to proceed on his individual capacity First and Eighth Amendment claims against Defendant Fultz. Plaintiff’s claims against Defendant Smith are **DISMISSED**.

IT IS SO ORDERED.

5-28-2019
DATE


EDMUND A. SARGUS, JR.
CHIEF UNITED STATES DISTRICT JUDGE